



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

APR 16 2003

Ms. Mimi Drew, Director  
Water Resource Management  
Florida Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Dear Ms. Drew:

The Environmental Protection Agency (EPA) has completed review of the 2000 – 01 triennial revisions to Florida water quality standards. The revisions were adopted by the Florida Environmental Regulation Commission on February 28, 2002, and submitted to EPA by letter dated May 17, 2002, from Teri L. Donaldson, General Counsel of the Florida Department of Environmental Protection, to James Palmer, Regional Administrator. The letter also included a certification that the revisions were “duly adopted pursuant to state law.”

The revisions included new and revised standards provisions in Florida Administrative Code (F.A.C.) Chapters 62-4 and 62-302. These new and revised provisions included the following:

- Modified antidegradation permitting requirements in F.A.C. 62-4.242 for domestic and industrial wastewater facilities;
- Addition of definitions in F.A.C. 62-302.200 for “Dissolved Metal” and “Total Recoverable Metal”;
- Adoption in F.A.C. 62-302.500 of a reference to the document, “Guidance for Establishing a Metals Translator,” (Florida Department of Environmental Regulation, December 17, 2001) for the purposes of establishing a procedure for translating water quality criteria for cadmium, chromium, copper, lead, nickel, silver, and zinc from values measured as total recoverable to values measured as dissolved;
- Revisions of water quality criteria for cadmium, chromium, copper, lead, nickel, and zinc in F.A.C. 62-302.530 [Criteria for Surface Water Quality Classifications]; and
- Clarification of footnotes in F.A.C. 62-302.530, and addition of descriptive text for human health-based criteria in the introduction to F.A.C. 62-302.530.

These new and revised provisions are summarized in the following paragraphs.

The revisions in F.A.C. Chapter 62-4 modify existing antidegradation permitting requirements for domestic and industrial wastewater facilities by specifying additional requirements for a demonstration that a proposed discharge is necessary or desirable under federal standards and under circumstances which are clearly in the public interest, i.e., Florida's test for Tier 2 "high quality" waters. This demonstration serves as one component of EPA's Tier 2 provisions in 40 CFR 131.12(a)(2) for a State finding that ". . . allowing lower water quality is necessary to accommodate important economic or social development . . ." in high quality waters.

F.A.C. 62-4.424(1)(c) was revised to require a permit applicant for a domestic wastewater facility to evaluate the economic and technical feasibility of water conservation measures and infiltration inflow reduction measures. The revisions also included minor adjustments to existing language for reuse alternatives to include "reuse of reclaimed water," and clarified that the evaluation of alternate discharge locations is appropriate for reduction of adverse impacts on water quality.

F.A.C. 62-4.424(1)(d) was revised to require that a permit applicant for an industrial wastewater facility must evaluate the economic and technical feasibility of alternate discharge locations or land treatment/recycling options, and to consider waste minimization and source reduction options for the facility.

The revisions also included the addition of ". . . or generic . . ." to the phrase in F.A.C. 62-302.300(18)(a), ". . . an applicant for either a general [or generic permit] or renewal of an existing permit for which no expansion of the discharge is proposed is not required to show that any degradation from the discharge is necessary or desirable under federal standards and under circumstances which are clearly in the public interest." A generic permit under this regulation is a National Pollution Discharge Elimination System (NPDES) general permit. EPA previously considered and approved this provision when it included the term general permit. EPA understands, with respect to antidegradation, that the revision at issue clarifies the State's approach to considering "generic" permits is the same approach that is now applied to general permits in cases involving high quality waters. The State has clarified, through additional communications, that for any generic permit the State considers covered by this provision, the State will demonstrate that the permitted activities, either singly or in the aggregate, have no significant impact on water quality. The State will inform the public that this finding has been made in the fact sheet of each generic permit at the time of initial issuance or re-issuance.

Definitions for "Dissolved Metal" and "Total Recoverable Metal" were added in F.A.C. 62-302.200(9) and (28). These definitions are consistent with EPA's analytical methodologies for these parameters in 40 CFR Part 136 and Standard Methods.

Revisions to the listing of General Criteria in F.A.C. 62-302.500 were adopted for the water quality criteria for designated uses of State waters for cadmium, chromium, copper, lead, nickel, silver, and zinc. F.A.C. 62-302.500(2)(d) was revised to include a reference to the document, "Guidance for Establishing a Metals Translator," (Florida

Department of Environmental Regulation, December 17, 2001). This modifies the general criteria for these seven metals by specifying the procedure which may be used for translation of the water quality criteria expressed in F.A.C. 62-302.530 [Surface Water Quality Criteria] as "Total Recoverable Metal" to "Dissolved Metal", in a permit application for a discharge containing these parameters. The referenced document specifies the conditions governing how the translator can be used, including data requirements for application of the procedure.

The aquatic life-based water quality criteria values in F.A.C. 62-302.530 for cadmium, chromium, copper, lead, nickel, and zinc were also modified to reflect the "Total Recoverable Metal" concentrations that were used to establish EPA's Section 304(a) recommended water quality criteria for these metals on December 7, 1998 [Federal Register Volume 63, No. 234, pp. 67548 – 67558]. Also, a footnote was added to F.A.C. 62-302.530 for these parameters to reflect these new requirements. These revisions are consistent with EPA's current Section 304(a) criteria recommendations for these parameters.

Two existing footnotes in F.A.C. 62-302.530 were deleted. The first was a statement that a notation of "Annual avg" for any criteria was intended to mean that the value was to be the maximum concentration at average annual flow conditions. This footnote was replaced with a statement to the same effect in the introduction to F.A.C. 62-302.530. The second was a statement that a notation of "Max" for any criteria value was intended that the value was a maximum not to be exceeded at any time. Since this was already stated in the introduction to F.A.C. 62-302.530, the State determined that the footnote was not needed. The remaining footnotes for F.A.C. 62-302.530 were renumbered as necessary.

In January 2001, EPA, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service signed a memorandum of agreement (MOA) which governs the exercise of EPA's authorities under Sections 303(c), 304(a), and 402 of the Clean Water Act in relation to EPA's obligations under Section 7 of the Endangered Species Act. This MOA addresses EPA review and approval of State-adopted water quality criteria for the circumstances of the revisions to Florida's water quality criteria for aquatic life.

Pursuant to the provisions of the MOA, EPA and the Services are conducting a Section 7 consultation on the aquatic life criteria published by EPA under section 304(a) authorities to assess the effect of the criteria on listed species and designated critical habitat. Separate, State-by-State consultations on such criteria are not necessary, subject to the requirements related to reinitiation of consultation under 50 CFR 402.16, if the State-adopted water quality criteria for protection of aquatic life are identical to or more stringent than the recommended section 304(a) criteria. Since the revisions adopted by the State for water quality criteria for protection of aquatic life meet this requirement, EPA is acting on these criteria under Clean Water Act section 303(c) authorities pending the conclusion of the national consultation.

With respect to the revisions involving antidegradation, EPA has made a determination that these revisions will result in "No Effect" on any endangered or threatened species or critical habitat since these revisions do not result in any change to the underlying requirement i.e., existing uses will continue to be maintained and protected. With respect to the revision involving generic permits, EPA has made a determination the this revision will result in "No Effect" since 1) this revision will result in no significant impact on water quality as outlined in the discussion above and 2) this revision does not result in any change to the underlying requirement of antidegradation i.e., existing uses will continue to be maintained and protected. On the revisions involving the human health criteria, EPA has determined that these revisions are not subject to the consultation process under the Endangered Species Act since the human health criteria are based on toxicity/carcinogenicity to humans and do not consider effects on aquatic or aquatically dependent species. Therefore, consultation with the Services is not necessary for these revisions.

In summary, all of these revisions are consistent with the requirements of the Clean Water and 40 CFR Part 131, and I am approving these revisions to Florida water quality standards. If you have questions, please contact me at 404-562-9470.

Sincerely,

A handwritten signature in cursive script, reading "Carol G. Kembe, for".

James D. Giattina, Director  
Water Management Division